

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

Case No. 1:06-CR-200
Gwin, J.

rule under which she brings this motion, this Court reads the motion as a [Federal Rules of Criminal Procedure Rule 42\(g\)](#) motion for return of property.

In bringing this motion, Movant Alexander repeats her contention that the money and guns belonged to her, which was first advanced at the suppression hearing. [Doc. [138](#).] She says that the money was derived from the sale of her car and that she still possesses the “letter of receipt for the sale.” [Doc. [138](#).] She says that she purchased the guns “while in Las Vegas.” [Doc. [138](#).]

The Government responds that the Movant Alexander has not demonstrated that she is entitled to the property, and that the property was disposed of through administrative forfeiture on November 11, 2006. [Doc. [140-1](#).] The Government attached a record of the administrative forfeiture to the response as Exhibit 1. [Doc. [140-2](#).]

II. Analysis

Rule 41(g) allows a “person aggrieved by . . . the deprivation of property” to “move for the property’s return.” [FED. R. CRIM. P. 41\(g\)](#). The movant bears the burden of showing entitlement to the property. 3A Wright, King, Klein, & Welling, [Federal Practice and Procedure § 673](#). “Some cases have . . . allowed a motion for return of the property after conviction, and even though the property was lawfully seized, once the need for the evidence has terminated.” [Id.](#)

When, however, “an administrative forfeiture proceeding has begun, the district court loses jurisdiction . . . since the claimant then has an adequate remedy at law.” [Id.](#) In [Shaw v. United States, 891 F.2d 602 \(6th Cir. 1989\)](#), the Sixth Circuit held that the Rule 41 motion for return of property was not available to a movant when a legal administrative remedy existed.

Here, as in *Shaw*, the Rule 41 remedy is not available. The Government has already instituted the administrative forfeiture. This Court no longer has jurisdiction to deal with Movant Alexander’s

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claim.

III. Conclusion

For the reasons stated above, this Court **DENIES** Movant Alexnader's motion for return of property.

IT IS SO ORDERED.

Dated: December 12, 2008

s/ James S. Gwin

JAMES S. GWIN

UNITED STATES DISTRICT JUDGE